



# 2016-021

STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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February 4, 2016

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Honorable W. Phil Eldridge  
Attorney, Geneva County Commission  
Post Office Drawer 338  
Hartford, Alabama 36344-0338

Counties – Industrial Parks – Industrial  
Development – Municipalities – Real  
Property

Pursuant to section 3 of the Local Acts for Geneva County of the Recompiled Constitution of Alabama, the Geneva County Commission may abolish the Geneva County Industrial Park (“Park”) and sell the remaining 85 acres to the City of Hartford, provided that the one industry located therein requests abolishment, the property continues to be used for industrial purposes, and the county complies with paragraph three of section 3.

The county may sell the remaining acreage for a purchase price less than the county’s actual purchase and development costs for such property, provided the county complies with paragraph five of section 3.

The county may not convey two five-acre lots to the city for no monetary consideration.

Dear Mr. Eldridge:

This opinion of the Attorney General is issued in response to your request on behalf of the Geneva County Commission.

QUESTION

(1) Can the Geneva County Commission abolish the Geneva County Industrial Park and sell the remaining 85 acres to the City of Hartford, provided the one industry located therein gives its written consent, and the county complies with paragraph three of section 3 of the Local Amendments for Geneva County of the Recompiled Constitution of Alabama?

FACTS AND ANALYSIS

In your letter of request, you informed this Office that, in 2002, Geneva County purchased 90 acres of land pursuant to section 3 of the Local Amendments for Geneva County of the Recompiled Constitution of Alabama. ALA. CONST. LOCAL AMENDS., Geneva County § 3 (amend. 429). Geneva County has incurred costs to improve and develop the land for use as an industrial park. The Geneva County Industrial Park was designated as an industrial park pursuant to section 11-23-1 *et. seq.*, of the Code of Alabama. ALA. CODE §§ 11-23-1 to 11-23-8 (2008). The Park is adjacent to the city of Hartford, which is within Geneva County.

Thus far, one five-acre lot within the Park has been sold for use as an industrial facility. The city wants to purchase the remaining 85 acres and annex the entire 90 acres into the city limits for its use as an industrial park. The purchase price would be for less than the county's actual purchase and development costs for the property. You also note that the one industry located in the Park will agree with the abolishment and sale of the property to the city.

This Office has stated that a county may abolish an industrial park if “the industries located therein request the abolishment of the industrial park. . . .” Opinion to Honorable John Ben Jones, Attorney, City of Valley, dated September 20, 2010, A.G. No. 2010-104, *quoting* ALA. CODE § 11-23-7 (2008). Prior to annexation, the industrial park must be abolished. ALA. CODE § 11-23-6 (2008).

This Office previously issued an opinion to you addressing the same issue, concluding that the property could be sold. Opinion to Honorable W. Phil Eldridge, Geneva County Commission, dated November 3, 2008, A.G. No. 2009-012. That opinion turned on application of the industrial park statutes. The *Eldridge* opinion did not consider section 3 of the Local Amendments for Geneva County of the Recompiled Constitution of Alabama, under which the

property was acquired. Section 3 provides for the promotion of economic and industrial development by certain counties, including Geneva County. Paragraphs one and three of section 3 state as follows:

For the promotion of local economic and industrial development, the governing bodies of Bullock, Coffee, Coosa, Dallas, Etowah, Geneva, Houston, Jefferson, Lawrence, Macon, Marengo, Mobile, Morgan, Talladega, Madison, Shelby, and Tuscaloosa counties and of each municipality situated in said counties, other provisions of law or this Constitution notwithstanding, *shall each have . . . full and continuing power (a) to purchase*, lease or otherwise acquire, *land . . . for use as industrial site, or industrial park, projects . . . and (b) to lease, sell, grant, exchange or otherwise convey, on terms approved by the governing body of the county, or of municipality exercising such power, all, or any part of, any such project to any person, firm or corporation, public or private*, including to any industrial development board or authority heretofore or hereafter created by any such county or municipality therein, for the purpose of the constructing, or developing thereon, by such purchaser or lessees, and the equipping and operating of, industrial, transportation, distribution, warehouse or research facilities, and of office and other facilities auxiliary to the foregoing.

....

The names and addresses of all parties involved in conveyances of land herein provided and the amount of any monies paid or received shall be published in the newspaper in the county with the largest circulation.

ALA. CONST. LOCAL AMENDS., Geneva County § 3 (amend. 429) (codified at ALA. CONST. LOCAL AMENDS., Bullock County § 3 (amend. 429) (emphasis added).

The above-cited provision authorizes the Geneva County Commission to sell all or any part of the Park to any public or private corporation or industrial development board for the purpose of constructing, developing, equipping, and operating industrial facilities and other facilities secondary to such industrial

facilities. In your request, you state that the City of Hartford intends to continue to use the 90 acres as an industrial park. Based on the foregoing, it is the opinion of this Office that the county may sell the remaining 85 acres in the Park to the city if the industry located therein gives its written consent, the Park remains an industrial facility or is used for industrial purposes, and the county commission complies with the publication requirements of paragraph three of section 3.

### CONCLUSION

Pursuant to section 3 of the Local Acts for Geneva County of the Recompiled Constitution of Alabama, the Geneva County Commission may abolish the Geneva County Industrial Park and sell the remaining 85 acres to the City of Hartford, provided that the one industry located therein requests abolishment, the property continues to be used for industrial purposes, and the county complies with paragraph three of section 3.

### QUESTION

(2) If your answer to Question 1 is “yes,” can the county sell for less than the purchase and development costs for such property, provided it complies with paragraph five of section 3?

### FACTS AND ANALYSIS

Paragraph five of section 3 states as follows:

Furthermore, no county or municipality shall sell any real property acquired under the authority hereof for a price less than its actual purchase and development cost of such property unless:

(a) The price be approved at a public meeting of the governing body of such county or municipality; and

(b) At least 14 days prior to such public meeting at which such price is approved by such governing body, it has published notice in the

newspaper with the largest circulation in the county in which the property is located stating (1) the acreage proposed to be sold, (2) the section or sections or subdivisions of record in which the property is located, (3) the price per acre at which sale is proposed to be made, and (4) the place where a map of the property can be examined by the public and

(c) The price thus approved is no less than the price advertised aforesaid. . . .

ALA. CONST. LOCAL AMENDS., Geneva County § 3 (amend. 429) (codified at ALA. CONST. LOCAL AMENDS., Bullock County § 3 (amend. 429).

Paragraph five of section 3 explicitly delineates the manner in which a county or municipality may sell any real property acquired pursuant to section 3 for a price less than its actual purchase and development costs. Accordingly, it is the opinion of this Office that, if the county adheres to the provisions set out in paragraph five, it may sell the remaining acreage to the city for less than those costs, understanding that the city will continue to use the property for industrial purposes. The *Eldridge* opinion is modified to the extent that it conflicts with this opinion.

#### CONCLUSION

The county may sell the remaining acreage to the city for less than the county's actual purchase and development costs for such property, provided the county complies with paragraph five of section 3.

#### QUESTION

(3) Can the county convey two five-acre lots in the Park to the city for no monetary consideration for the purpose of the construction of a building or buildings and development thereon by the city and then to be conveyed, sold, or leased by it to a private person, firm, or corporation for the equipping and operating by such entity of industrial, transportation, distribution, warehouse, or research facilities, and of office and other facilities auxiliary to the foregoing,

provided the county complies with paragraphs three and five of section 3?

### FACTS AND ANALYSIS

As noted earlier, the county may convey lots within the Park to the city. Nevertheless, paragraph five of section 3 states that, “**no county** or municipality **shall sell** any real property acquired under the authority hereof **for a price** less than its actual purchase and development cost of such property unless” certain conditions occur. ALA. CONST. LOCAL AMENDS., Geneva County § 3 (amend. 429) (codified at ALA. CONST. LOCAL AMENDS., Bullock County § 3 (amend. 429) (emphasis added).

Under the established rules of statutory construction, words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000); *Ex parte T.B.*, 698 So. 2d 127, 130 (Ala. 1997).

Webster’s Third New International Dictionary defines “price” as “the amount of money given or set as the amount to be given as a consideration for the sale of a specified thing.” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1798 (3<sup>rd</sup> ed. 2002). Moreover, paragraph three of section 3 reiterates that in conveyances of land “**the amount of any monies paid** or received” is to be published in the newspaper. ALA. CONST. LOCAL AMENDS., Geneva County § 3 (amend. 429) ALA. CONST. LOCAL AMENDS., Geneva County § 3 (amend. 429) (codified at ALA. CONST. LOCAL AMENDS., Bullock County § 3 (amend. 429) (emphasis added). Based on the foregoing provisions, a gratuitous transfer would not be acceptable.

### CONCLUSION

The county may not convey two five-acre lots to the city for no monetary consideration.

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I hope this opinion answers your questions. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

LUTHER STRANGE  
Attorney General

By:

A handwritten signature in cursive script that reads "G. Ward Beeson, III". The signature is written in dark ink and is positioned above the printed name.

G. WARD BEESON, III  
Chief, Opinions Section

LS/MMG  
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